



Department of Corrections  
**ADMINISTRATIVE BULLETIN**

**Subject: REGULATIONS  
PROTECTING STAFF AND  
INMATES FROM RETALIATION**

**Number:**

**92/44**

**Date Issued:**

**December 24, 1992**

**Cancelled Effective:**

The purpose of this Administrative Bulletin (AB) is to reiterate the California Department of Corrections' policies prohibiting retaliation against staff and inmates for reporting improper department activities. It is critical that managers and supervisors understand and reinforce the Department's opposition to real or perceived retaliation for reporting violations or for cooperating with investigations.

The below-listed Government Codes, California Department of Corrections' Operations Manual sections, and reference materials are guidelines that protect staff from retaliation. In addition, the listed California Code of Regulations (CCR) protects inmates from retaliation.

**California Government Code 10540. Citation:**

This article shall be known as and may be cited as the "Reporting of Improper Governmental Activities Act."

**California Government Code 10541. Legislative intent:**

"It is the intent of the Legislature that state employees should disclose, to the extent not expressly prohibited by law, improper governmental activities."

**California Government Code 10542. Definitions:**

"(a) 'Employee' means any individual appointed by the Governor or employed or holding office in a state department or agency."

"(d) 'Improper government activity' means any activity by a state agency or by an employee which is undertaken in the performance of the employee's official duties, whether or not such action is within the scope of employment, and which is (1) in violation of any state or federal law. . ."

**California Government Code 10543. Improper use of official authority or influence:**

"(a) An employee may not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, commanding ...or attempting to ... any person for the purpose of interfering with the right of that person to disclose to the Joint Legislative Audit Committee matters within the scope of this article."



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**California Government Code 10547. Report of improper government activity:**

"(a) If the committee determines that there is reasonable cause to believe that an employee or state agency has engaged in any improper governmental activity, it shall report the nature and details of the activity to the head of the employing agency, or the appropriate appointing authority, and, if appropriate, to the Attorney General, the policy committees of the Senate and Assembly having jurisdiction over the subject involved, and to such other authority as the committee determines appropriate."

"(b) The committee shall have no enforcement power. In any case in which the committee submits a report of alleged improper activity to the head of the employing agency, that individual shall report to the committee with respect to any action taken by the individual regarding the activity ... Every investigation shall be kept confidential, except that the committee may issue any report given to the head of the employing agency or the appropriate appointing authority pursuant to subdivision (a) that it deems necessary to serve the interests to the state."

**Fair Employment And Housing Code 12940. Employers, labor organizations, employment agencies and other persons; unlawful employment practice; exceptions:**

"It shall be unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where base upon applicable security regulations established by the United States or the State of California:"

"(e) For any employer, labor organization, or employment agency to harass, discharge, expel, or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code (should be Health and Safety Code) which prohibits retaliation against hospital employees who report suspected patient abuse by health facilities or community care facilities."

**Health and Safety Code 11161.8. Injuries or condition resulting from neglect or abuse, reports:**

"Every person . . . conducting any hospital in the state or the person managing or in charge of such hospital . . . who receives a patient transferred from a health facility . . . who exhibits a physical injury or condition . . . results from neglect or abuse, shall report such . . . to both the local police . . . and the county health department."



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"Any registered nurse, licensed vocational nurse, or licensed clinical social worker employed at such hospital may also make a report . . . Every physician and surgeon who has under his charge or care any such patient . . . shall make such report."

"The report shall state the character and extent of the physical injury or condition."

"No employee shall be discharged, suspended, disciplined, or harassed for making a report pursuant to this section."

**California Department of Corrections Operations Manual (DOM) subsection 33030.5.2 Causes Of Adverse Actions (Defined) and subsection 33030.5.2.24 Retaliation (Defined):**

"Unlawful Retaliation against any state officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Attorney General or any other appropriate authority any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related thereto."

**DOM 31010.5 Sexual Harassment (Defined):**

"Retaliation against any employee or applicant for employment who complained of sexual harassment or who assisted or participated in any manner on behalf of a complainant in an investigation, hearing, or proceeding conducted as a result of an alleged sexual harassment."

**Administrative Bulletin #92/11 Sexual Harassment dated April 13, 1992:**

Outlines and updates the California Department of Correction's sexual harassment policies and reminds employees of their rights and responsibilities in ensuring a harassment-free work environment.

**CCR Section 30B4.1. Right to Appeal;**

"(d) No reprisal shall be taken against an inmate or parolee for filing an appeal. This shall not prohibit disciplinary action against an inmate or parolee abusing the appeal process as define in section 3084.4."

**CCR Section 3391. Conduct:**

"Employees shall be alert, courteous, and professional in their dealings with inmates, parolees, fellow employees, visitors, and members of the public . . . Irresponsible or unethical conduct or



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conduct reflecting discredit on themselves or the department, either on or off duty, shall be avoided by all employees."

Managers and supervisors are responsible to ensure that all staff are aware of the above policies. Please inform all concerned persons of the contents of this bulletin which shall remain in effect until incorporated into the appropriate section of the DOM. Any inquiries regarding this AB should be directed to William B. Anderson, Chief, Institution Services Unit, at (916) 322-8874 or CALNET 492-8874.

R. H. DENNINGER  
Chief Deputy Director